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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION N
09/815,877	03/23/2001	Randall C. Arnold	AUGA15000005	7377
7590 11/02/2004			EXAMINER	
Terrence A. Meador INCAPLAW 1050 Rosecrans Street, STE. K San Diego, CA 92106			ROLLINS, ROSILAND STACIE	
			ART UNIT	PAPER NUMBER
			3739	

DATE MAILED: 11/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/815,877

Applicant(s)

ARNOLD ET AL.

Examiner

Rosiland S Rollins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 5/13/04.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 34-37, 40, 44-47, 56-59, 61, 65-68 and 70 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 34, 35, 54 and 56 is/are rejected.
- 7) ☒ Claim(s) 36, 37, 40, 44-47, 57-59, 61, 65-68 and 70 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 34, 35 and 54 are rejected under 35 U.S.C. 102(b) as being anticipated by Dickerhoff et al. (US 5360439). In column 3 lines 1-28, Dickerhoff et al. disclose a method for controlling airflow through an inflatable device and an apparatus for warming a person as recited in the claims. The snap disclosed by Dickerhoff as a means for closing the port is understood by Examiner to be a plug.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 35 and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berke et al. (US 5304213) further in view of Dickerhoff et al. Berke et al. teach all of the limitations of the claims except a plug removably received in at least one port of the two ports. Dickerhoff et al. disclose the use of a snap, which is understood by Examiner to be a plug. The snap is a means to allow reclosing of the port after the

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permanent seal has been broken. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a snap as taught by Dickerhoff et al. as a means of reclosing the port of Berke et al. once the permanent seal has been broken.

Response to Arguments

Applicant's arguments filed May 13, 2004 have been fully considered but they are not persuasive.

Applicant argues that the snap of Dickerhoff does not meet the dictionary meaning of the word plug. Applicant goes further to point out that a plug is defined as "a piece used to fill a hole" and that a snap is defined as "a catch or fastening that closes or locks with a click" or "a metal fastener consisting essentially of a ball and socket attached to opposed parts of an article and used to hold meeting edges together".

After careful consideration of both definitions Examiner has found that the snap does in fact meet the dictionary meaning of the word plug especially in view of how the snap is used in the Dickerhoff reference. Dickerhoff explains that a snap could be used to close the inlet port, which essentially is a hole. Therefore, the snap would be used to fill a hole as required by the definition given by Applicant.

Applicant also argues that the "semi-rigid" collar with an opening of Berke cannot be closed or sealed by any of the means taught by Dickerhoff since Dickerhoff closes sleeve-like "flexible" inlet ports. However, according to the definition provided by the

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Applicant, Dickerhoff's closure mechanism, a snap, comprises a metal fastener, which is understood by the Examiner to be a semi-rigid material at least. Therefore, Dickerhoff's mechanism could in fact be used within a semi-rigid structure because of its own semi-rigid properties.

Allowable Subject Matter

5. Claims 36, 37, 40, 44-47, 57-59, 61, 65-68, 70 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rosiland S Rollins whose telephone number is 703/3082711. The examiner can normally be reached on Mon.-Fri. 9:00 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C. Dvorak can be reached on 703/3080994. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Rosiland S Rollins
Primary Examiner
Art Unit 3739

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